

**San Luis & Delta-Mendota Water Authority**



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August 17, 2012

State Water Resources Control Board  
1001 I Street  
Sacramento, California 95814

Subject: Notice Of Public Workshops And Request For Information Comprehensive (Phase 2)  
Review And Update To The Bay-Delta Plan – Workshop 1: Ecosystem Changes And  
The Low Salinity Zone

Members of the Board:

The State Water Contractors ("SWC") and San Luis & Delta-Mendota Water Authority ("SLDMWA")<sup>1</sup> appreciate the opportunity to participate in the State Water Resources Control Board's ("State Water Board") comprehensive review of the Water Quality Control Plan for the San Francisco Bay-Sacramento/San Joaquin River (Bay-Delta Plan). In response to the State Water Board's notice for the above-referenced workshop, the SWC and SLDMWA submit the enclosed executive summary, technical assessment of available scientific information, and reference material.

**I. Scientific Presentation**

The enclosed technical assessment reviews the available scientific information regarding five aspects of ecosystem change that may contribute to the current health and integrity of the Bay-Delta estuary:

- Changes to the composition of the food web;
- Anthropogenic changes to the physical landscape;
- Increase in water temperature;
- Reduction in turbidity; and,
- Changes to flows and the location of the low salinity zone in the estuary.

The scientific information reflects the complexity and broad changes that have occurred in the Bay-Delta estuary. It underscores the importance of implementing comprehensive solutions that are focused on the drivers of the Bay-Delta's physical, chemical, and biological changes.

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<sup>1</sup> See attachment 1 for a description of the SWC and SLDMWA.

## II. Framework for Decision-Making

The Porter-Cologne Water Quality Control Act (“Porter-Cologne Act”), Water Code, § 13000 *et seq.*, provides the authority for the State Water Board to develop water quality objectives, and these technical workshops are an important fact-finding element of the process to update the Bay-Delta Plan. However, the available scientific information provided is only part of what must be considered before the State Water Board can decide what changes, if any, are needed to the current Bay-Delta Plan. There are also the unique and discrete authorities, responsibilities, and obligations of the State Water Board to the people of California. The SWC and SLDMWA highlight some constraints and mandates on how the State Water Board can exercise its water quality planning authority.

**Water Quality not Water Rights** : The State Water Board must distinguish between its water rights and water quality functions and recognize that certain of the actions potentially proposed to help fix the Delta cannot be addressed through water quality objectives. The Porter-Cologne Act defines “water quality objectives” as: “the limits or levels of water quality constituents and characteristics which are established for reasonable protection of beneficial uses of water and to prevent nuisance within a specific area.” (Water Code, § 13050(h).) Hydrodynamic aspects of Bay-Delta, such as flow, depth, and stage, do not fit within the common understanding of what constitutes a water quality objective.<sup>2</sup>

**Comprehensive Planning**: To reasonably protect beneficial uses, the best available science calls for actions far beyond those that fall within the State Water Board’s water quality control planning purview. Thus, to be effective, the State Water Board must consider water quality objectives in the context of appropriate actions by others, both public and private. Water Code § 13242(a). When it does that, the State Water Board should be mindful of the multiple efforts that have attempted or are attempting to balance biological and water resource needs, and the resulting social impacts (e.g., Delta Plan, Bay Delta Conservation Plan, recent consultation on biological opinions for the Central Valley and State Water Projects).

**Required Balancing**: The Porter-Cologne Act requires the State Water Board to establish water quality objectives that “attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.” (Water Code, § 13000.) This mandates the State Water Board to consider all uses of water in the Bay-Delta estuary, the value of those uses, and the costs of potential restrictions upon those uses, when deciding how to balance water quality objectives.

**Ensure Beneficial Uses, Protect Against Waste** : The California Constitution provides additional direction to the State Water Board when reviewing or establishing water quality objectives. It demands that the State’s waters must be “put to beneficial use to the fullest extent of which they are capable.” Therefore, the balancing performed by the State Water Board when reviewing the Bay-Delta Plan must protect against its waste.

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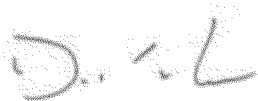
<sup>2</sup> Hydrodynamic factors also fall outside of the federal Clean Water Act’s purview for setting water quality standards. (See 40 C.F.R. §§ 130.2(d), 131.3(b).)

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The SWC and SLDMWA look forward to providing additional comments throughout this process. If you have any questions about the enclosed executive summary, technical assessment of available scientific information, or reference material, please do not hesitate to contact us. Again, thank you for the opportunity to participate in this important process.

Yours truly,



Daniel G. Nelson  
Executive Director  
San Luis & Delta-Mendota Water Authority



Terry L. Erlewine  
General Manager  
State Water Contractors

## Attachment 1

The SWC organization is a nonprofit mutual benefit corporation that represents and protects the common interests of its 27 member public agencies in the vital water supplies provided by California's State Water Project ("SWP"). The SLDMWA is a public agency, established in January 1992 pursuant to the Joint Exercise of Powers Act. (Govt. Code, § 6500). The Water Authority consists of 29 water agencies, 27 of which hold contracts that entitle them to water developed by the federal Central Valley Project ("CVP"). Together, the SWC and SLDMWA represent the interests of approximately 25,000,000 people and approximately 2,000,000 acres of highly productive agricultural lands. Members of the SLDMWA also support wildlife refuges that form the largest contiguous wetland in California. The SWC and SLDMWA member agencies are:

<b>San Luis &amp; Delta-Mendota Water Authority Member Agencies:</b>	<b>State Water Contractors Member Agencies:</b>
Banta-Carbona Irrigation District Broadview Water District Byron Bethany Irrigation District Central California Irrigation District City of Tracy Del Puerto Water District Eagle Field Water District Firebaugh Canal Water District Fresno Slough Water District Grassland Water District Henry Miller Reclamation District #2131 James Irrigation District Laguna Water District Mercey Springs Water District Oro Loma Water District Pacheco Water District Pajaro Valley Water Management Agency Panoche Water District Patterson Irrigation District Pleasant Valley Water District Reclamation District 1606 San Benito County Water District San Luis Water District Santa Clara Valley Water District Tranquility Irrigation District Turner Island Water District West Side Irrigation District West Stanislaus Irrigation District Westlands Water District	Alameda County Flood Control and Water Conservation District Zone 7 Alameda County Water District Antelope Valley-East Kern Water Agency Casitas Municipal Water District Castaic Lake Water Agency Central Coast Water Authority City of Yuba City Coachella Valley Water District County of Kings Crestline-Lake Arrowhead Water Agency Desert Water Agency Dudley Ridge Water District Empire-West Side Irrigation District Kern County Water Agency Littlerock Creek Irrigation District Metropolitan Water District of Southern California Mojave Water Agency Napa County Flood Control and Water Conservation District Oak Flat Water District Palmdale Water District San Bernardino Valley Municipal Water District San Gabriel Valley Municipal Water District San Geronio Pass Water Agency San Luis Obispo County Flood Control and Water Conservation District Santa Clara Valley Water District Solano County Water Agency Tulare Lake Basin Water Storage District